

Decision \_\_\_\_\_

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of the City of Tulare for an order authorizing the construction of the Santa Fe Trail Grade Separation Project over the Union Pacific Railroad (UP) in the City of Tulare.

Application 14-03-009  
(Filed March 4, 2014)

**DECISION AUTHORIZING THE CITY OF TULARE TO  
CONSTRUCT A GRADE-SEPARATED PEDESTRIAN  
CROSSING OVER THE UNION PACIFIC FRESNO  
SUBDIVISION MAIN LINE TRACKS IN THE CITY  
OF TULARE, TULARE COUNTY**

**Summary**

This decision authorizes the City of Tulare to construct a grade-separated pedestrian rail crossing over the Union Pacific Railroad Company Fresno Subdivision main line track located in the City of Tulare, Tulare County. The new crossing will be identified as California Public Utilities Commission Crossing Number 001B-249.70-AD and United States Department of Transportation Number 440855M.

This proceeding is closed.

**Discussion**

The City of Tulare (City) requests authorization to construct a grade-separated pedestrian rail crossing (crossing) over the Union Pacific Railroad Company (UPRR) Fresno Subdivision main line track in the City, Tulare County. The crossing will connect a segment of the Santa Fe Trail (trail) from "I" Street easterly to "K" Street. The crossing will carry pedestrians and bicyclists over the

UPRR track and “J” Street. The City states that the proposed crossing will improve a major pedestrian and non-motorized vehicular traffic by connecting currently severed trail termini. The crossing will also help relieve traffic congestion on local streets and State Route 99 Freeway by providing alternative modes of transportation, thus improving traffic circulation patterns and access to downtown for residents located on the west side of the City. The crossing will be identified as California Public Utilities Commission (Commission/CPUC) Crossing No. 001B-249.70-AD and United States Department of Transportation No. 440855M.

The nearest highway-rail crossings are located at Cross Avenue (CPUC Crossing No. 001B-249.60), 489 feet to the north and San Joaquin Avenue (CPUC Crossing No. 001B-249.80), 459 feet to the south. Non-vehicular traffic volume on the two adjacent highway-rail crossings is 252 pedestrians and 137 bicyclists per day. The City anticipates many of these users will utilize the new crossing.

The crossing will be approximately 1,228 feet long and 12 feet wide. The crossing approaches will include switchback ramp structures having a maximum of 8% grade. The crossing will have chain link railing along both sides of the bridge, as well as bicycle railing along the switchback ramps to protect users from falling hazards and will conform to all Americans with Disabilities Act requirements.

Rail operations at the crossing consist of 24 trains per day at a maximum speed of 60 mph. The permanent minimum vertical clearance from top of rail on the UPRR track to the bottom of the grade-separated bridge structure will be 23 feet 6 ½ inches. However, during construction, the vertical clearance will be 21 feet 6 inches, which is less than the minimum 22 feet 6 inches requirement of Commission General Order (GO) 26-D. The City requests permission for a

temporary deviation from the vertical clearance requirements of GO 26-D. UPRR is in concurrence with the project and does not object to the temporary impaired overhead clearance during construction. Temporary impaired horizontal clearance to the nearest bridge support will be 12 feet during construction and permanent horizontal clearance will be 50 feet, which meet GO 26-D requirements.

### **Environmental Review and CEQA Compliance**

The California Environmental Quality Act of 1970 (CEQA), as amended, Public Resources Code Section 21000, et seq.) applies to discretionary projects to be carried out or approved by public agencies. A basic purpose of CEQA is to inform governmental decision-makers and the public about potential, significant environmental effects of the proposed activities. Since the project is subject to CEQA and the Commission must issue a discretionary decision in order for the project to proceed (i.e., the Commission has the exclusive authority to approve the project pursuant to Section 1202 of the Public Utilities Code), the Commission must consider the environmental consequences of the project by acting as either a lead or responsible agency under CEQA.

The lead agency is either the public agency that carries out the project,<sup>1</sup> or the one with the greatest responsibility for supervising or approving the project as a whole.<sup>2</sup> Here, the City is the lead agency for this project, and the Commission is a responsible agency because it has jurisdiction to issue a permit for the project. As a responsible agency under CEQA, the Commission must consider the lead agency's environmental documents and findings before acting

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<sup>1</sup> CEQA Guidelines (Title 14 of the California Code of Regulations), Section 15051(a).

<sup>2</sup> CEQA Guidelines (Title 14 of the California Code of Regulations), Section 15051(b).

on or approving this project.<sup>3</sup> As a responsible agency, the Commission must consider the impacts and mitigation measures for those parts of the project over which it has jurisdiction.<sup>4</sup>

In June 2013, the City published the Final Mitigated Negative Declaration (FMND) entitled “*Santa Fe Trail/Union Pacific Grade Separation: Final Mitigated Negative Declaration.*” On July 17, 2013, the City filed a Notice of Determination (NOD) with the State Clearinghouse which states that the project will not have a significant effect on the environment, a Negative Declaration was prepared for this project pursuant to the provisions of CEQA, mitigation measures were made a condition of the approval of the project, a Statement of Overriding Considerations was not adopted for this project, and findings were made pursuant to the provisions of CEQA.

The FMND found either no impact or a less-than-significant impact for the majority of CEQA’s required study areas, but identified several impacts as less than significant with mitigation incorporation. Specifically, these impacts were related to emissions of Particulate Matter-10 during construction of the rail crossing, temporary traffic impacts during construction of the rail crossing, and water quality impacts from “a small increase in the amount of impervious surface area and an associated increase in the rate and volume of stormwater runoff from the site.”

The FMND adopted mitigation measures to reduce these impacts to a less-than-significant level. Mitigation measures include using water, vegetative ground cover, or other methods to stabilize dust emissions. To address traffic

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<sup>3</sup> CEQA Guidelines, Sections 15050(b) and 15096.

<sup>4</sup> CEQA Guideline (Title 14 of the California Code of Regulations), Section 15096(g)(1).

impacts, the contractor will be required to develop and implement a Traffic Control Plan to be approved by the City Engineer, which may include temporary speed limit restrictions and the use of flaggers, warning signs, barricades, and other devices according to the standard guidelines required by the City. Finally, with regard to water quality impacts, the FMND's mitigation measures are to file a Notice of Intent to discharge from the project site in accordance with National Pollutant Discharge Elimination System (NPDES) requirements prior to construction and to develop and implement a Stormwater Pollution Prevention Plan (SWPPP) in consultation with the City prior to beginning construction of the rail crossing. The SWPPP must include best management plans to reduce potential impacts to surface water quality through the construction and life of the project.

The Commission reviewed and considered the City's FMND and NOD as they relate to this crossing and finds them adequate for our decision-making purposes.

### **Filing Requirements and Staff Recommendation**

The application is in compliance with the Commission's filing requirements, including Rule 3.7 of the Rules of Practice and Procedure, which relates to the construction of a public road across a railroad.

The Commission's Safety and Enforcement Division, Office of Rail Safety - Rail Crossings Engineering Branch has inspected the site of the proposed crossing, reviewed, and analyzed the plans submitted with the application, and recommends that the requested authority to construct the subject crossing be granted for a period of three years.

**Categorization and Need for Hearings**

The application was published in the Commission's Daily Calendar on March 24, 2014. In Resolution ALJ 176-3333, dated March 27, 2014, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protests have been received. There is no apparent reason why the application should not be granted. Given these developments, it is not necessary to disturb the preliminary determinations.

**Waiver of Comment Period**

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Section 311(g)(2) of the Public Utilities Code and Rule 14.6(c)(2) of the Commission's Rules of Practice and Procedure, the otherwise applicable 30-day period for public review and comment is waived.

**Assignment of Proceeding**

Denise Tyrrell is the assigned Examiner in this proceeding.

**Findings of Fact**

1. Notice of the application was published in the Commission's Daily Calendar on March 24, 2014.
2. The City requests authority, under Public Utilities Code Sections 1201-1205, to construct a grade-separated pedestrian crossing that will span over one track owned by UPRR in the City, Tulare County. The crossing will be identified as CPUC Crossing No. 001B-249.70-AD and DOT No. 440855M.
3. The City requests permission for a temporary deviation, during the construction period, from the vertical clearance requirements of GO 26-D.
4. The City is the lead agency for this project under CEQA.

5. The Commission is a responsible agency for this project and has reviewed and considered the lead agency's FMND and NOD.

6. The City prepared the FMND, titled *Santa Fe Trail/Union Pacific Grade Separation: Final Mitigated Negative Declaration*, dated June 2013, for this project.

7. The FMND identified impacts as less than significant with mitigation incorporation for impacts related to emissions, temporary traffic impacts, and water quality impacts, during construction of the rail crossing.

8. The FMND adopted mitigation measures to address impacts identified as less than significant with mitigation incorporation, including using water, vegetative ground cover, or other methods to stabilize dust emissions during construction, the development and implementation of a Traffic Control Plan to be approved by the City of Tulare to address traffic impacts during construction, and the requirement that a Notice of Intent to discharge from the project site must be filed in accordance with National Pollutant Discharge Elimination System requirements prior to construction as well as the development and implementation of a Stormwater Pollution Prevention Plan in consultation with the City of Tulare.

9. On July 17, 2013, the City released a NOD.

10. The FMND determined that there will be no significant impacts with mitigation incorporation due to the rail crossing part of the overall project.

11. The Commission reviewed and considered the City's FMND and NOD as they relate to this crossing and finds them adequate for our decision-making purpose.

**Conclusions of Law**

1. The FMND and NOD prepared by the City as the documentation required by CEQA for the project are adequate for our decision-making purposes.
2. The FMND and NOD were completed in compliance with CEQA.
3. The FMND and NOD reflect the Commission's independent judgment and analysis.
4. The application is uncontested and a public hearing is not necessary.
5. The application should be granted as set forth in the following order.

**ORDER****IT IS ORDERED** that:

1. The City of Tulare is authorized to construction a new grade-separated pedestrian rail crossing above Union Pacific Railroad Company track in the City of Tulare, Tulare County.
2. The new grade-separated pedestrian crossing shall have the configuration described above and specified in the application and its attachments. The grade-separated pedestrian rail crossing shall be identified as California Public Utilities Commission Crossing Number 001B-249.70-AD and United States Department of Transportation Number 440855M.
3. The minimum permanent clearance between the new grade-separated pedestrian rail crossing and the track shall be 23 feet 6 ½ inches.
4. The City of Tulare is granted permission for a temporary impaired vertical clearance of 21 feet 6 inches (measured from top of rail to the lowest portion of the overhead structure or construction falsework) during the construction period only.
5. The Union Pacific Railroad Company shall notify all the track operators about the impaired vertical clearance during construction.



6. The City of Tulare shall notify the California Public Utilities Commission's Safety and Enforcement Division, Rail Crossings Engineering Branch at least five business days prior to opening the crossing. Notification shall be made to [rceb@cpuc.ca.gov](mailto:rceb@cpuc.ca.gov).

7. Within 30 days after completion of the work under this order, the City of Tulare shall notify the California Public Utilities Commission's Safety and Enforcement Division, Rail Crossings Engineering Branch in writing, by submitting a completed California Public Utilities Commission Standard Form G (*Report of Changes at Highway Grade Crossings and Separations*), of the completion of the authorized work. Form G requirements and forms can be obtained at the California Public Utilities Commission web site Form G page at [www.cpuc.ca.gov/PUC/safety/Rail/Crossings/formg.htm](http://www.cpuc.ca.gov/PUC/safety/Rail/Crossings/formg.htm). This report may be submitted electronically to [rceb@cpuc.ca.gov](mailto:rceb@cpuc.ca.gov).

8. The City of Tulare shall comply with all applicable rules, including California Public Utilities Commission General Orders, California Manual on Uniform Traffic Control Devices, and Americans with Disabilities Act.

9. Within 30 days after completion of the work under this order, the Union Pacific Railroad Company shall notify the Federal Railroad Administration of the existence of the crossing by submitting a U.S. DOT CROSSING INVENTORY FORM, form FRA F6180.71. A copy shall be provided concurrently to the California Public Utilities Commission's Safety and Enforcement Division, Rail Crossings Engineering Branch. This copy of the form may be submitted electronically to [rceb@cpuc.ca.gov](mailto:rceb@cpuc.ca.gov).

10. This authorization shall expire if not exercised within three years unless time is extended or if the above conditions are not satisfied. The California

Public Utilities Commission revoked or modify this authorization if public convenience, necessity, or safety so require.

11. A request for extension of the three-year authorization period must be submitted to the California Public Utilities Commission's Safety and Enforcement Division, Rail Crossings Engineering Branch at least 30 days before its expiration of that period. A copy of the extension request shall be sent to all interested parties.

12. This application is granted as set forth above.

13. Application 14-03-009 is closed.

This order becomes effective today.

Dated \_\_\_\_\_, 2014, at San Francisco, California.